

REMARKS

This amendment is responsive to the final Office Action mailed October 8, 2008. Claims 1-107 are pending in this application. Claims 1-13 and 39-107 were previously withdrawn due to a restriction/election requirement. Claims 14-38 are rejected under 35 U.S.C. 103(a) as being obvious in view of U.S. 2002/0104800 to Collins et al. ("Collins"). Claims 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of U.S. Patent No. 5,932,103 to Kenley et al ("Kenley"). Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of WO 99/29355 to Sternby ("Sternby"). Applicants respectfully submit that the claims as presented are patentable over the applied art for the reasons discussed below. Claims 17, 18, 24, 25, 30 and 31 have been amended. No new matter has been added in amending the claims.

Examiner Deak is thanked for the courtesy of a brief telephonic interview that was conducted on December 15, 2008, between the Examiner and the undersigned. The identity of the Kenley reference in the Office Action, p. 4, paragraph 3, was clarified as U.S. Pat. No. 5,591,344 to Rodney Kenley et al. ("Kenley II"). The claims were not discussed. The Examiner is thanked for her courtesy in granting the interview.

As pointed out in the Response submitted on July 25, 2008, Collins' apparatus does not isolate Collins' blood filtering device from the rest of the medical fluid flow path, as required by Claim 14. To reiterate the Office Action, Collins in Fig. 1a teaches a medical fluid circuit and an isolating apparatus in the form of upstream and downstream valves 51, 55. Office Action, p. 2, lines 13-17. The controller may operate to close valves 51, 55 in order to place the cartridge in isolation mode and command pump 62 to deliver a volume of substitute fluid to the patient (see paragraph 0045). Id. at lines 19-21. The medical fluid circuit is the circuit for delivering the medical fluid to the blood filtering device and includes a fresh dialysate supply 50, flow balance system 54, inlet valve 51, second supply 300, substitution fluid delivery module 100, outlet valve 55, dialysate pump 42, ultrafiltrate (UF) pump 44, and connecting lines as shown.

On the inlet side, and as pointed out by the Office Action, the fluid flow path includes substitution pump 62, replacement fluid supply 300, and conduits 120, 130 64, 362 and 364. See Collins Fig. 1a and paragraphs [0037] to [0040]. Viewing Fig. 1a, when valves 51, 55 are

closed, dialyzer 10 remain connected to the fluid circuit through conduit 130, valve 372, second supply 300, conduit 120, conduit 64 and pump 62. Thus, valve 55 does not serve to isolate Collins' dialyzer 10 from the medical fluid flow path.

By contrast, and referring to the embodiment of Fig. 1 of the present application, inlet valve 58 is directly connected to the inlet to dialyzer 44 via conduit 60 and outlet valve 120 is directly connected to the outlet of dialyzer 44 via a single conduit, not numbered. Thus, closing valves 58 and 120 completely isolates dialyzer 44 from the medical fluid flow circuit. Collins does not have such an isolating apparatus. When Collins valves 51, 55 are closed, dialyzer 10 is so far from being isolated that it remains connected to separate medical fluid container 300 and pump 62, including conduits 130, 120, 64, 56 and 52. Accordingly, Collins does not teach or suggest the claimed apparatus operable to isolate the blood filtering device.

In addition, Collins does not teach or suggest the claimed first pump operable in a non-isolated condition to pump medical fluid from a medical fluid supply to an extracorporeal circuit/blood filtering device. The Office Action cites Collins' pump 62, as shown in Fig. 1a. Inspection of the accompanying text in paragraph [0041] reveals that pump 62 is not used for dialysis, but rather is used to draw off a portion of dialysate fluid through conduits 120, 64, and 360 to sterilizing filter 92 (substitution fluid filter). After the dialysate fluid is passed through the substitution fluid filter, it flows through flexible tubing 82, through a pinch valve 84, blood detector 382 and connector 70, to blood drip 32 and to the patient. As discussed in paragraph [0045], pump 62 is used only in the diafiltration mode and is not used to pump medical fluid to a blood filtering device as recited in Claim 14. Accordingly, Collins does not teach or suggest the claimed first pump. Claim 14 is allowable for this additional reason. Claims depending from Claim 14, Claims 15-38, are allowable because Claim 14 is allowable.

Claims 17, 18 24, 25, 30 and 31 have been amended to conform to proper format, per comments by the Examiner, and for no reason related to patentability nor to disclaim any subject matter over the art of record. The Examiner is respectfully requested to enter the amendment.

Claims 21-32 are rejected over Collins in view of Kenley II. The rejection cites Kenley, columns 47, 48 and 51, as teaching the subject matter of these claims. Kenley teaches a rinse-

back sequence, cols. 47-49, but does not teach or suggest many of the specific claim elements of these dependent claims, as admitted in the Office Action itself. In any event, Claim 14 is allowable and dependent Claims 15-38 are allowable at least because they depend from allowable Claim 14.

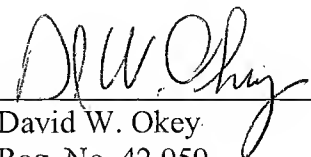
Claims 36-37 are also allowable at least because they depend from allowable Claim 14.

For the foregoing reasons, Applicants respectfully submit that Claims 14-38 are in condition for allowance and earnestly solicit reconsideration of same. Applicants also respectfully renew their request that an Examiner's amendment be made to independent Claims 99, 102 to 105 to bring those claims and associated dependent claims into a scope commensurate with Claim 14, and that such claims also be deemed allowable. The Commissioner is hereby authorized to charge Deposit Account 02-1818 for any other fees which are due.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY



David W. Okey
Reg. No. 42,959
Customer No. 29200
(312) 807-4282